

SERVICE DATE – AUGUST 20, 2012

SURFACE TRANSPORTATION BOARD

DECISION

Docket No. AB 33 (Sub-No. 297X)

UNION PACIFIC RAILROAD COMPANY—ABANDONMENT EXEMPTION—IN  
LAFAYETTE COUNTY, MO.

Decided: August 20, 2012

This decision grants an extension of time to negotiate a trail use/rail banking agreement.

Union Pacific Railroad Company (UP) filed a verified notice of exemption under 49 C.F.R. pt. 1152 subpart F—Exempt Abandonments to abandon 2.91 miles of a line of railroad known as the Lexington Industrial Lead between milepost 246.49 near Myrick and milepost 243.58 near Lexington, in Lafayette County, Mo. (the line). Notice of the exemption was served and published in the Federal Register on February 18, 2011 (76 Fed. Reg. 9,634). The exemption became effective on April 1, 2011.

By decision and notice of interim trail use or abandonment (NITU) served on February 24, 2012, the proceeding was reopened and a 180-day period was authorized to permit the City of Lexington (City) to negotiate, pursuant to the National Trails System Act, 16 U.S.C. § 1247(d) (Trails Act), an interim trail use/rail banking agreement with UP for the right-of-way. The negotiating period under the NITU is scheduled to expire on August 22, 2012.

By letter filed on July 30, 2012, the City requests an additional 180-day period to continue negotiations with UP.<sup>1</sup> The City states that the additional time is requested in anticipation of completing negotiations. In a response filed on August 2, 2012, UP states that it is willing to continue to negotiate with the City for trail use and supports the City's request for a 180-day extension of the NITU negotiating period.

Where, as here, the carrier is willing to continue trail use negotiations, the NITU negotiating period may be extended. See Rail Abans.—Use of Rights-of-Way as Trails—Supplemental Trails Act Procedures, 4 I.C.C.2d 152, 157-58 (1987). An extension of time will promote the establishment of trails and rail banking consistent with the Trails Act. Accordingly, the NITU negotiating period will be extended for an additional 180 days, until February 18, 2013.

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<sup>1</sup> The City's request does not clearly distinguish between interim trail use/rail banking under the NITU and a public use condition under 49 U.S.C. § 10905. No public use condition was imposed in this proceeding. The City's request therefore is construed as pertaining only to the trail use negotiating period under the NITU.

This decision will not significantly affect either the quality of the human environment or the conservation of energy resources.

It is ordered:

1. The City's request to extend the NITU negotiating period for an additional 180 days is granted.
2. The negotiating period under the NITU is extended to February 18, 2013.
3. This decision is effective on its service date.

By the Board, Rachel D. Campbell, Director, Office of Proceedings.